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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re MARTIN P., a Person Coming Under the
Juvenile Court Law.

STANISLAUS COUNTY
COMMUNITY SERVICES AGENCY,

Plaintiff and Respondent,

v.

M.P. et al.,

Defendants and Appellants.

F071459

(Super. Ct. No. 517109)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Stanislaus County. Ann Q. Ameral, Judge.

David M. Thompson, under appointment by the Court of Appeal, for Defendant and Appellant M.P. Seth F. Gorman, under appointment by the Court of Appeal, for Defendant and Appellant H.P.

John P. Doering, County Counsel, and Robin L.G. Gozzo, Deputy County Counsel, for Plaintiff and Respondent.

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* Before Gomes, Acting P.J., Detjen, J. and Franson, J.

H.P. (mother) and M.P. (father) appealed from the juvenile court's order terminating their parental rights (Welf. & Inst. Code, § 366.26)¹ as to their seven-month-old son Martin. After reviewing the juvenile court record, mother and father's court-appointed attorneys informed this court they could find no arguable issues to raise on mother and father's behalf. This court granted mother and father each leave to personally file a letter setting forth a good cause showing that an arguable issue of reversible error exists. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844 (*Phoenix H.*))

Mother filed a letter, informing this court she continues to participate in services and remains drug free. She attached letters from services providers and drug test results to support her assertions.

Father also filed a letter, pointing to mother's progress and informing this court that he remains clean and sober and regularly attends Narcotics Anonymous meetings. He asks for another chance to reunify with Martin.

We conclude mother and father failed to address the termination proceedings or set forth a good cause showing that any arguable issue of reversible error arose from the termination hearing. (*Phoenix H., supra*, 47 Cal.4th at p. 844.) Consequently, we dismiss their appeal.

PROCEDURAL AND FACTUAL SUMMARY

These dependency proceedings were initiated in August 2014 when the Stanislaus County Community Services Agency (agency) was notified that mother and newborn Martin tested positive for amphetamine at the time of his delivery. Mother disclosed that she had lost custody of a child and had been diagnosed with schizophrenia.

The agency discovered through searching its records that mother and father were married and had been so for three years. Prior to marrying they had been in a 10-year

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

relationship. They also had extensive histories of methamphetamine use. Mother who was 40 years old at the time of Martin's birth, had been using methamphetamine for 22 years. Her longest period of sobriety was one month. Father, 44 at the time of Martin's birth, had been using methamphetamine for 20 years. His longest period of sobriety was four months.

Mother and father also had a daughter, R., who was taken into protective custody in 2013 at the age of three months because mother and father, who were receiving family maintenance services, refused to participate in drug treatment. They subsequently failed to reunify with R. and their reunification services were terminated in August 2013. In November 2013, their parental rights were terminated.

In August 2014, the agency took Martin into protective custody and filed a dependency petition alleging mother and father's substance abuse and untreated mental illness and their neglectful treatment of R. placed Martin at a substantial risk of harm. (§ 300, subds. (b) & (j).) The agency placed Martin in a foster home.

The juvenile court ordered Martin detained pursuant to the petition and the agency referred mother and father for services pending the dispositional hearing. By mid-September 2014, they were participating in drug treatment, testing negative for drugs and visiting Martin weekly.

The juvenile court set a combined contested jurisdictional/dispositional hearing (hereafter contested hearing). In its report for the contested hearing, the agency recommended the juvenile court sustain the allegations in the petition and deny mother and father reunification services for failing to treat their drug abuse after their reunification services and parental rights as to R. were terminated. (§ 361.5, subd. (b)(10) & (11).)

In October 2014, the juvenile court convened the contested hearing. Mother and father testified they completed 48 and 45 days of inpatient drug treatment respectively and were participating in Narcotics Anonymous meetings. Mother further testified that

she used methamphetamine while she was pregnant with R., while R. lived with her under family maintenance and after R. was removed. She and father testified they did not participate in substance abuse services after their reunification services and parental rights as to R. were terminated and before Martin was taken into protective custody. Mother denied being diagnosed with schizophrenia.

The juvenile court continued the contested hearing for three weeks and reconvened in November 2014. By that time, mother had completed inpatient treatment and was living in a sober living facility. She was also participating in parenting classes.

At the conclusion of the contested hearing, the juvenile court found that mother and father had not made reasonable efforts to treat their drug abuse and denied them reunification services as recommended. The court set a section 366.26 hearing to implement a permanent plan for Martin.

In its report for the section 366.26 hearing, the agency informed the juvenile court that mother and father consistently visited Martin twice a month for two hours. Together they fed and held him and talked to him. They also maintained a cooperative relationship with Martin's foster mother who wanted to adopt Martin. Martin was placed in her care when he was two days old and she and Martin were, according to the agency, deeply and mutually bonded.

The agency recommended that the juvenile court find that Martin was likely to be adopted and terminate mother and father's parental rights at the section 366.26 hearing.

In March 2015, mother and father testified about their contact and visitation with Martin at the section 366.26 hearing. Mother testified Martin was excited upon seeing them and cried when their visits ended. She fed Martin and played blocks with him. She said she had done everything possible to gain custody of Martin and wanted the juvenile court to continue reunification services for her.

Father testified Martin lifted his head and smiled when he and mother entered the visitation room. During visitation, father played with Martin, talked to him, read to him

and tried to make him laugh. Father also wanted the juvenile court to continue reunification services for him and mother. He said they had changed their lives and wanted to work toward gaining custody of Martin.

At the conclusion of the hearing, the juvenile court found that Martin was likely to be adopted and terminated mother and father's parental rights.

DISCUSSION

An appealed-from judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is appellant's burden to raise claims of reversible error or other defect and present argument and authority on each point made. If appellant fails to do so, the appeal may be dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

At a termination hearing, the juvenile court's focus is on whether it is likely the child will be adopted and if so, order termination of parental rights. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) If, as in this case, the child is likely to be adopted, the juvenile court must terminate parental rights unless the parent proves there is a compelling reason for finding that termination would be detrimental to the child under any of the circumstances listed in section 366.26, subdivision (c)(1)(B). The party seeking to establish the existence of one of the section 366.26, subdivision (c)(1)(B) exceptions has the burden of producing that evidence. (*In re Megan S.* (2002) 104 Cal.App.4th 247, 252.)

At the section 366.26 hearing, mother and father's attorneys argued that terminating parental rights would be detrimental to Martin because he recognized them as his parents and was bonded to them. In so arguing, they invoked the beneficial relationship exception which states: "The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).)

When a juvenile court rejects a detriment claim and terminates parental rights, the appellate issue is not whether substantial evidence exists to support the court's rejection

of the detriment claim but whether the juvenile court abused its discretion in so doing. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.) For this to occur, the proof offered would have to be uncontradicted and unimpeached so that discretion could be exercised only in one way, compelling a finding in favor of the appellant as a matter of law. (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1528 (*I.W.*).)

In this case, there is no dispute that mother and father maintained regular visitation and contact with Martin. The question is whether the evidence compelled a finding that Martin would benefit from continuing his relationship with them as a matter of law. “To meet the burden of proving the section 366.26, subdivision (c)(1)(B)(i) exception the parent must show more than frequent and loving contact, an emotional bond with the child, or pleasant visits—the parent must show that he or she occupies a parental role in the life of the child.” (*I.W.*, *supra*, 180 Cal.App.4th at p. 1527.)

Although Martin was happy to see mother and father and enjoyed positive interaction with them, they failed to show that they occupied a parental role in his life such that terminating their parental rights would be detrimental to him. Indeed, the juvenile court concluded that Martin was more bonded to his foster mother and viewed her as his parent.

We conclude mother and father failed to show good cause that an arguable issue exists on this record and dismiss their appeal.

DISPOSITION

This appeal is dismissed.